

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

ANTONIO AGUILAR-LOPEZ,

Plaintiff,

NO. CV-12-5016-LRS

vs.

BENTON COUNTY, et al.,

Defendants.

**ORDER GRANTING DEFENDANT
MCCALMANT'S MOTION TO DISMISS**

BEFORE THE COURT is Defendant Randy McCalmant's Motion to Dismiss, ECF No. 53, filed on February 26, 2013, pursuant to Fed.R.Civ.P. Rule 4(m) and noted without oral argument for May 1, 2013. Plaintiff, who is an inmate at Victorville Federal Correctional Complex in California and proceeding *pro se* has not opposed this motion.

Local Rule 7.1(h)(5) for the United States District Court, Eastern District of Washington provides:

A failure to timely file a memorandum of points and authorities in support of or in opposition to any motion may be considered by the Court as consent on the part of the party failing to file such memorandum to the entry of an Order adverse to the party in default.

Plaintiff's failure to timely file a memorandum of points and authorities in opposition to Defendant's motion is considered as

1 consent to the entry of an order adverse to the plaintiff.

2 The Court has considered Defendant McCalmant's unopposed Motion
3 to Dismiss under Fed. R. Civ. 4(m) and being fully advised, hereby:

4 **GRANTS** Defendant McCalmant's Motion to Dismiss (**ECF No. 53**) and
5 **ORDERS** Plaintiff's claims against this Defendant McClamant be
6 dismissed without prejudice. Plaintiff has not responded or otherwise
7 shown good cause for the failure to effect timely service.

8 **IT IS SO ORDERED.** The District Court Executive is directed to
9 enter this Order, enter judgment consistent with this order and
10 forward a copy to the pro se Plaintiff.

11 **DATED** this 1st day of May, 2013

12 *s/Lonny R. Sukko*

13 LONNY R. SUKO
14 UNITED STATES DISTRICT JUDGE